

Senate File 2390 - Introduced

SENATE FILE 2390

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1169)

A BILL FOR

1 An Act relating to licensure and regulation for the hotel
2 sanitation code, home bakeries, and food establishments and
3 food processing plants, modifying fees and penalties, and
4 including effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

HOTEL SANITATION CODE

Section 1. Section 137C.6, subsection 3, paragraph b, Code 2018, is amended by striking the paragraph.

Sec. 2. Section 137C.7, Code 2018, is amended to read as follows:

137C.7 License required.

~~No~~ A person shall not open or operate a hotel until the regulatory authority has inspected the hotel and issued a license has been obtained from the regulatory authority and until the hotel has been inspected by the regulatory authority to the person. The regulatory authority shall conduct inspections in accordance with standards adopted by the department by rule pursuant to chapter 17A. Each license shall expire one year from the date of issue. A license is renewable. All licenses issued under ~~the Iowa hotel sanitation code~~ this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee per month if the license is renewed at a later date. A license is not transferable.

Sec. 3. Section 137C.9, subsection 1, Code 2018, is amended to read as follows:

1. Either the department or the municipal corporation shall collect the following annual license fees:

- a. For a hotel containing ~~fifteen~~ thirty guest rooms or less, ~~twenty-seven~~ fifty dollars.
- b. For a hotel containing more than ~~fifteen~~ thirty but less than ~~thirty-one~~ one hundred one guest rooms, ~~forty dollars and fifty cents~~ one hundred dollars.
- c. For a hotel containing more than ~~thirty~~ but less than ~~seventy-six~~ one hundred one guest rooms, ~~fifty-four~~ one hundred fifty dollars.
- ~~d. For a hotel containing more than seventy-five but less than one hundred fifty guest rooms, fifty-seven dollars and fifty cents.~~

1 ~~e. For a hotel containing one hundred fifty or more guest~~
2 ~~rooms, one hundred one dollars and twenty-five cents.~~

3 DIVISION II

4 HOME BAKERIES

5 Sec. 4. Section 137D.2, subsection 1, Code 2018, is amended
6 to read as follows:

7 1. A person shall not open or operate a home bakery
8 until a license has been obtained from the department of
9 inspections and appeals. The department shall collect a fee
10 of ~~thirty-three~~ fifty dollars and ~~seventy-five cents~~ for a
11 license. After collection, the fees shall be deposited in the
12 general fund of the state. A license shall expire one year
13 from date of issue. A license is renewable.

14 DIVISION III

15 FOOD ESTABLISHMENTS AND FOOD PROCESSING PLANTS

16 Sec. 5. Section 137F.1, Code 2018, is amended by adding the
17 following new subsections:

18 NEW SUBSECTION. 4A. *"Event"* means a significant occurrence
19 or happening sponsored by a civic, business, educational,
20 governmental, community, or veterans organization and may
21 include an athletic contest.

22 NEW SUBSECTION. 15A. *"Time/temperature control for safety*
23 *food"* means a food that requires time and temperature controls
24 for safety to limit pathogenic microorganism growth or toxin
25 formation.

26 Sec. 6. Section 137F.1, subsection 7, unnumbered paragraph
27 1, Code 2018, is amended to read as follows:

28 *"Food establishment"* means an operation that stores,
29 prepares, packages, serves, vends, or otherwise provides food
30 for human consumption and includes a food service operation
31 in a salvage or distressed food operation, school, summer
32 camp, residential service substance abuse treatment facility,
33 halfway house substance abuse treatment facility, correctional
34 facility operated by the department of corrections, or the
35 state training school, ~~or the Iowa juvenile home.~~ *"Food*

1 *establishment*” does not include the following:

2 Sec. 7. Section 137F.1, subsection 7, paragraphs b, e, and
3 f, Code 2018, are amended to read as follows:

4 b. An establishment that offers only prepackaged foods that
5 are ~~nonpotentially hazardous~~ not time/temperature control for
6 safety foods.

7 e. Premises where a person operates a farmers market, if
8 ~~potentially hazardous food is~~ time/temperature control for
9 safety foods are not sold or distributed from the premises.

10 f. Premises of a residence in which food that is
11 ~~nonpotentially hazardous~~ not a time/temperature control for
12 safety food is sold for consumption off the premises to a
13 consumer customer, if the food is labeled to identify the name
14 and address of the person preparing the food and the common
15 name of the food.

16 Sec. 8. Section 137F.1, subsections 11 and 12, Code 2018,
17 are amended by striking the subsections.

18 Sec. 9. Section 137F.1, subsections 13, 15, 16, and 17, Code
19 2018, are amended to read as follows:

20 13. “*Pushcart*” means a non-self-propelled vehicle food
21 establishment limited to serving ~~nonpotentially hazardous foods~~
22 foods that are not time/temperature control for safety foods or
23 commissary-wrapped foods maintained at proper temperatures, or
24 limited to the preparation and serving of frankfurters.

25 15. “*Temporary food establishment*” means a food
26 establishment that operates for a period of no more than
27 fourteen consecutive days in conjunction with a single event
28 ~~or celebration~~.

29 16. “*Vending machine*” means a ~~food establishment which is~~
30 a self-service device that, upon insertion of a coin, paper
31 currency, token, card, or key, or by optional manual operation,
32 dispenses unit servings of food in bulk or in packages without
33 the necessity of replenishing the device between each vending
34 operation.

35 17. “*Vending machine location*” means the ~~physical site~~

1 room, enclosure, space, or area where a one or more vending
2 ~~machine is~~ machines are installed and operated, including the
3 storage and ~~servicing~~ areas on the premises that are used in
4 ~~conjunction with~~ to service and maintain the vending machine.

5 Sec. 10. Section 137F.3, subsection 4, Code 2018, is amended
6 to read as follows:

7 4. A municipal corporation that is responsible for
8 enforcing ~~this chapter~~ within its jurisdiction pursuant to an
9 agreement shall ~~make an annual report to the director providing~~
10 ~~the following information:~~

11 ~~a. The total number of licenses granted or renewed by the~~
12 ~~municipal corporation under this chapter during the year.~~

13 ~~b. The number of licenses granted or renewed by the~~
14 ~~municipal corporation under this chapter during the year in~~
15 ~~each of the following categories:~~

16 ~~(1) Food establishments.~~

17 ~~(2) Food processing plants.~~

18 ~~(3) Mobile food units and pushcarts.~~

19 ~~(4) Temporary food establishments.~~

20 ~~(5) Vending machines.~~

21 ~~c. The amount of money collected in license fees during the~~
22 ~~year.~~

23 ~~d. The amount expended to perform the functions required~~
24 ~~under the agreement, submitted on a form prescribed by the~~
25 ~~department.~~

26 ~~e. Other information the director requests~~ use the data
27 system prescribed by the director for activities governed by an
28 agreement executed pursuant to this section.

29 Sec. 11. Section 137F.4, Code 2018, is amended to read as
30 follows:

31 **137F.4 License required.**

32 A person shall not operate a food establishment or food
33 processing plant to provide goods or services to the general
34 public, or open a food establishment to the general public,
35 until the appropriate license has been obtained from the

1 regulatory authority. Sale of products at wholesale to outlets
2 not owned by a commissary owner requires a food processing
3 plant license. A license shall expire one year from the date
4 of issue. A license is renewable if application for renewal is
5 made prior to expiration of the license or within sixty days
6 of the expiration date of the license. All licenses issued
7 under **this chapter** that are not renewed by the licensee on or
8 before the expiration date shall be subject to a penalty of ten
9 percent per month of the license fee if the license is renewed
10 at a later date.

11 Sec. 12. Section 137F.5, Code 2018, is amended to read as
12 follows:

13 **137F.5 Application for license.**

14 1. An application form prescribed by the department
15 for a license under **this chapter** shall be obtained from
16 the department or from a municipal corporation which is
17 a regulatory authority. A completed application shall be
18 submitted to the appropriate regulatory authority.

19 2. A person conducting an event shall submit a license
20 application and an application fee of fifty dollars to the
21 appropriate regulatory authority at least sixty days in advance
22 of the event. An "event" for purposes of this subsection
23 does not include a function with ten or more temporary food
24 establishments, a fair as defined in section 174.1, or a
25 farmers market.

26 ~~2.~~ 3. The dominant form of business shall determine the
27 type of license for establishments which engage in operations
28 covered under both the definition of a food establishment and
29 of a food processing plant.

30 ~~3.~~ 4. The regulatory authority where the unit is domiciled
31 shall issue a license for a mobile food unit.

32 ~~4.~~ ~~An application for renewal of a license shall be made~~
33 ~~at least thirty days before the expiration of the existing~~
34 ~~license.~~

35 Sec. 13. Section 137F.6, subsection 1, Code 2018, is amended

1 to read as follows:

2 1. The regulatory authority shall collect the following
3 annual license fees:

4 a. For a mobile food unit or pushcart, ~~twenty-seven~~ two
5 hundred fifty dollars.

6 b. For a temporary food establishment per fixed location
7 for a single event, ~~thirty-three dollars and fifty cents~~ fifty
8 dollars.

9 c. For a temporary food establishment for multiple
10 nonconcurrent events during a calendar year, one annual
11 license fee of two hundred dollars for each establishment on a
12 countywide basis.

13 ~~e.~~ d. For a vending machine, ~~twenty~~ fifty dollars for the
14 first machine and ~~five~~ ten dollars for each additional machine.

15 ~~d.~~ e. For a food establishment which prepares or serves
16 food for individual portion service intended for consumption
17 on-the-premises, the annual license fee shall correspond to the
18 annual gross food and beverage sales of the food establishment,
19 as follows:

20 (1) Annual gross sales of ~~under fifty~~ less than one hundred
21 thousand dollars, ~~sixty-seven dollars and fifty cents~~ one
22 hundred fifty dollars.

23 (2) Annual gross sales of at least ~~fifty~~ one hundred
24 thousand dollars but less than ~~one~~ five hundred thousand
25 dollars, ~~one hundred fourteen dollars and fifty cents~~ three
26 hundred dollars.

27 (3) Annual gross sales of ~~at least one~~ five hundred thousand
28 dollars but less than ~~two hundred fifty thousand~~ dollars, ~~two~~
29 ~~hundred thirty-six dollars and twenty-five cents~~ or more, ~~four~~
30 hundred dollars.

31 ~~(4) Annual gross sales of two hundred fifty thousand dollars~~
32 ~~but less than five hundred thousand dollars~~, ~~two hundred~~
33 ~~seventy-five~~ dollars.

34 ~~(5) Annual gross sales of five hundred thousand dollars or~~
35 ~~more~~, ~~three hundred three dollars and seventy-five cents~~.

1 ~~e.~~ f. For a food establishment which sells food or food
2 products to consumer customers intended for preparation or
3 consumption off-the-premises, the annual license fee shall
4 correspond to the annual gross food and beverage sales of the
5 food establishment, as follows:

6 (1) Annual gross sales of ~~under ten~~ less than two hundred
7 fifty thousand dollars, ~~forty dollars and fifty cents~~ one
8 hundred fifty dollars.

9 (2) Annual gross sales of at least ~~ten~~ two hundred fifty
10 thousand dollars but less than ~~two~~ seven hundred fifty thousand
11 dollars, ~~one hundred one dollars and twenty-five cents~~ three
12 hundred dollars.

13 (3) Annual gross sales of ~~at least two~~ seven hundred fifty
14 thousand dollars ~~but less than five hundred thousand dollars,~~
15 ~~one hundred fifty-five dollars and twenty-five cents~~ or more,
16 four hundred dollars.

17 ~~(4) Annual gross sales of at least five hundred thousand~~
18 ~~dollars but less than seven hundred fifty thousand dollars, two~~
19 ~~hundred two dollars and fifty cents.~~

20 ~~(5) Annual gross sales of seven hundred fifty thousand~~
21 ~~dollars or more, three hundred three dollars and seventy-five~~
22 ~~cents.~~

23 f. g. For a food processing plant, the annual license fee
24 shall correspond to the annual gross food and beverage sales of
25 the food processing plant, as follows:

26 (1) Annual gross sales of ~~under fifty~~ less than two hundred
27 thousand dollars, ~~sixty-seven dollars and fifty cents~~ one
28 hundred fifty dollars.

29 (2) Annual gross sales of at least ~~fifty~~ two hundred
30 thousand dollars but less than two hundred ~~fifty thousand~~
31 million dollars, ~~one hundred thirty-five~~ three hundred dollars.

32 (3) Annual gross sales of ~~at least two hundred fifty~~
33 ~~thousand~~ million dollars ~~but less than five hundred thousand~~
34 ~~dollars, two hundred two dollars and fifty cents~~ or more, five
35 hundred dollars.

1 ~~(4) Annual gross sales of five hundred thousand dollars or~~
2 ~~more, three hundred thirty-seven dollars and fifty cents.~~

3 ~~g. h.~~ For a farmers market where ~~potentially hazardous~~
4 time/temperature control for safety food is sold or
5 distributed, one annual license fee of one hundred fifty
6 dollars for each vendor on a countywide basis.

7 i. For a school participating in the United States
8 department of agriculture's nutrition programs including
9 the national school lunch program and the school breakfast
10 program, three hundred dollars for a production kitchen and two
11 hundred dollars for a serving site. For a school with both a
12 production kitchen and a serving site, two hundred dollars.

13 j. For a certificate of free sale or sanitation, thirty-five
14 dollars for the first certificate and ten dollars for each
15 additional identical certificate requested at the same time.

16 ~~h. k.~~ For a food establishment covered by both paragraphs
17 ~~"d" "e" and "e" "f", the license fees assessed shall be an~~
18 ~~amount not to exceed seventy-five percent of the total fees~~
19 ~~applicable under both paragraphs~~ applicant shall pay the
20 licensee fee based on the dominant form of business plus one
21 hundred fifty dollars.

22 l. For an unattended food establishment, the annual license
23 fee shall correspond to the annual gross food and beverage
24 sales, as follows:

25 (1) Annual gross sales of less than one hundred thousand
26 dollars, seventy-five dollars.

27 (2) Annual gross sales of one hundred thousand dollars or
28 more, one hundred fifty dollars.

29 Sec. 14. Section 137F.6, subsection 2, Code 2018, is amended
30 by striking the subsection.

31 Sec. 15. REPEAL. Section 137F.17, Code 2018, is repealed.

32 DIVISION IV

33 EFFECTIVE DATE

34 Sec. 16. EFFECTIVE DATE. This Act takes effect January 1,
35 2019.

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EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to food and consumer safety by changing requirements for the hotel sanitation, home bakeries, and food establishment and food processing plants Code chapters.

Division I of the bill removes the requirement that a local board of health responsible for enforcing the Iowa hotel sanitation code provide to the director of the department of inspections and appeals information regarding the hotel licenses granted in the year. The division requires a regulatory authority, meaning the department of inspections and appeals or a local board of health, in conducting inspections of hotels to do so in accordance with rules adopted by the department of inspections and appeals. The division provides that licensees may be subject to a penalty of 10 percent of the license fee per month rather than a flat 10 percent upon failure to renew a license on or before the expiration date. The division also changes the license fee schedule for hotel licenses.

Division II of the bill increases the annual license fee for a home bakery from \$33.75 to \$50.

Division III of the bill relates to food establishments and food processing plants. The division eliminates a food service operation in the Iowa juvenile home from the definition of food establishment. The division adds a definition for "time/temperature control for safety food" and replaces references to potentially hazardous food with this phrase. The division defines the term "event" as a significant occurrence or happening sponsored by a civic, business, educational, governmental, community, or veterans organization and may include athletic contests. The division modifies the definitions of "vending machine" and "vending machine location".

The division eliminates the annual report a municipal

1 corporation responsible for enforcing the food establishments
2 and food processing plants Code chapter must provide the
3 director of inspections and appeals, but requires the municipal
4 corporation to use the data system prescribed by the director.

5 The division requires a food establishment or food
6 processing plant seeking licensure under the Code chapter to
7 renew prior to the time of the expiration of licensure or
8 within 60 days of the expiration date.

9 The division adds a \$200 general application fee
10 for licensure under the Code chapter. This general
11 application fee does not apply to farmers markets, temporary
12 food establishments for a single event, temporary food
13 establishments for multiple nonconcurrent events, or vending
14 machines. However, the division requires a person conducting
15 an event to submit an application and a \$50 application fee
16 to the appropriate regulatory authority 60 days prior to the
17 event. For purposes of this application and application
18 fee, an "event" does not include a function with 10 or more
19 temporary food establishments, a fair as defined in Code
20 section 174.1, or a farmers market.

21 The division changes the license fee schedule for mobile
22 food units or pushcarts, temporary food establishments
23 per fixed location for a single event, temporary food
24 establishments for multiple nonconcurrent events, vending
25 machines, food establishments which prepare or serve food for
26 individual portion service intended for consumption on the
27 premises, food establishments which sell food or food products
28 intended for consumption off the premises, food processing
29 plants, and farmers markets. The division adds new categories
30 of license fees for schools with production kitchens or serving
31 sites, for unattended food establishments, and for certificates
32 of free sale or sanitation.

33 The division repeals the Code section subjecting persons in
34 violation of the food establishments and food processing plants
35 Code chapter to a \$100 penalty.

1 The bill takes effect January 1, 2019.